

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL BROWN,

Petitioner,

v.

Case No. 2:05-cv-36
HON. R. ALLAN EDGAR

BARBARA BOUCHARD,

Respondent.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from petitioner. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Petitioner argues that he did not procedurally default the issues in his petition because he received his mail from the Rehearing Division late. Petitioner never filed for review in the state courts because he received the decision too late. However, petitioner made no attempt to file an action in the state courts. Petitioner's failure to file an action in the state court precludes federal relief. Moreover, petitioner was not denied any federal right as a result of the guilty finding after his misconduct hearing. The fact that there may exist consequences to the guilty finding does not establish that petitioner's constitutional rights were violated. Petitioner received notice of the

charges. This court may not correct perceived errors based upon state law. The guilty finding was supported by the record and petitioner received due process. Injunctive relief is denied.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

Dated: 6/5/06

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE